*[Virginia Establishes a Double Standard in Tax Law](https://jigsaw.vitalsource.com/books/9780190945763/epub/OEBPS/Contents.xhtml" \l "ts7)*

Tax policy was the site of one of the earliest and most significant interventions made by English colonial lawmakers to cordon off black women from white, practically and symbolically. In the 1643 law that follows, the Virginia Assembly made one of its first discriminations according to race. The provision clarified the tithing system—by which Anglican ministers in each parish would be paid. European colonists paid a variety of taxes based not on income but “per poll” (per person) or according to the property they owned. Given the scarcity of circulating coins or paper currency, taxes were typically paid in goods including foodstuffs. Starting in 1643, heads of household were required to pay annually the designated amount for each male over fifteen in the household (whether free, indentured, or enslaved)—and for what other category of person? We can think of the distinction that the law silently made between “negro” and other women as a continuation, or a second act, in the process of sexual stereotyping described by Jennifer L. Morgan in her essay “‘Some Could Suckle over Their Shoulder.’” The Virginia law not only placed an extra financial burden on free black families, but also broadcast the ruling class’s dictum that African and African-descended women were assumed to be field laborers, thus denying them domesticity.

The 1643 statute was tested in the colony’s lower courts. Would authorities permit exceptions? Two examples are given here. In the first case, white male colonist Francis Stripes had recently married; it is likely that a neighbor or tax assessor complained to the court that Stripes had not been paying the proper tithe. In Susannah’s case, we do not know how the petitioner made a living, but it was not necessarily as a farm laborer. What do you imagine she argued in her plea (which was likely made orally) to the bench of local gentlemen who served as justices? How did they justify their ruling to themselves and to her? The court clerk’s omission of Susannah’s surname reflected a common colonial tendency to erase the chosen identities of people of color.

Be it further enacted and confirmed That there be tenn pounds of tob[acco]o per poll & a bushel of corne per poll paid to the ministers within the severall parishes of the colony for all tithable persons, that is to say, as well for all youths of sixteen years of age as upwards, as also for all negro women at the age of sixteen years.

1671 case, Lower Norfolk County: It is the opinion and Judgement of the Court that francis Stripes ought to pay Leavyes and tythes for his wife (shee being a negro) It being according to Law; and therefore ordered that he pay the Same for the Last year past, as well as this present [year] and so for the future.

1677 case, Charles City County: Upon the petition of Susannah a free Negro-Woman that she may be Exempted from paying Levyes, And Whereas the Worshipful Courte is informed of her strength and ability It is thereupon thought fit that she be not Exempted but pay Levyes.

Assembly of Virginia, act 1, March 1643, in William Waller Hening, *The Statutes at Large: Being a Collection of All the Laws of Virginia, from the First Session of the Legislature, in the Year 1619*, 13 vols. (New York: R. & W. & G. Bartow, 1823), 1:242; Lower Norfolk County Order Book, 1665–75, vol. 73, and Charles City County Order Book, 1677–79, 216, reproduced in *The Old Dominion in the Seventeenth Century: A Documentary History of Virginia, 1606–1689*, rev. ed., ed. Warren M. Billings (Chapel Hill, NC, 2007), 183. The cases are reprinted with the kind permission of the author and publisher.

[*Virginia’s 1662 Law Defining Race-Based Enslavement*](https://jigsaw.vitalsource.com/books/9780190945763/epub/OEBPS/Contents.xhtml#ts8)

The system of slavery in North America was marked by an emphasis on visible bodily differences, skin color in particular. However, then as now, ideas about race were subjective and unstable. Colonists could not rely on English statutes or common law for clarity because the category of chattel slavery (treating bonded persons as property) had fallen out of legal usage in the early medieval period. Therefore, they had to devise new laws in order to justify race-based, chattel slavery. Colonial lawmakers struggled to define the status of children born to unmarried parents whose fathers were categorized as white and whose mothers were perceived to be black. Might such children claim free status? Could white fathers be obliged to take responsibility for their mixed-race children? In Spanish colonies in the Americas, a complex system of godparenting made it possible for white fathers to maintain a wide variety of relationships with their mixed-blood children.

The Virginia law of 1662 shows how English colonists settled the question. Along with other laws passed at mid-century, it marked a turning point—from a period when blacks’ status was often ambiguous and freedom was not foreclosed to a long era in which the default assumption would be that African-descended persons were enslaved and had few opportunities to become free. The Latin phrase for the rule enshrined in the colonial slave codes was *partus sequitur ventrem*, meaning that the status of the child (slave or free) would follow the mother’s status. How did the 1662 law conflict with traditional English inheritance practices? What do the statute’s two sections reveal about how Virginia legislators wished to shape interracial sexual relations? (With regard to the second section, note that the usual fine for fornication was five hundred pounds of tobacco.) What are the implications of the law for children whose fathers were free black men and whose mothers were enslaved?

Whereas some doubts have arrisen whether children got by any Englishman upon a negro woman should be slave or free, Be it therefore enacted and declared by this present grand assembly, that all children borne in this country shalbe held bond or free only according to the condition of the mother, And that if any christian shall committ fornication with a negro man or woman hee or shee soe offending shall pay double the [usual] fines.

Assembly of Virginia, act 16, December 1691, in William Waller Hening, *The Statutes at Large: Being a Collection of All the Laws of Virginia, from the First Session of the Legislature, in the Year 1619*, 13 vols. (New York, 1823), 2:170.

[*A Massachusetts Minister’s Slave Marriage Vows*](https://jigsaw.vitalsource.com/books/9780190945763/epub/OEBPS/Contents.xhtml#ts9)

Few white Northerners objected to the assumptions that justified the slave system. Although most Africans and African-descended people who were enslaved lived in the South, the economic system of slavery undergirded nearly all facets of the colonial economy. The merchants of Newport, Rhode Island, made enormous profits as the most active slave traders in the English colonies. For a gentleman, having one or two enslaved persons among his dependents was a status symbol. Clergymen—who were respected for their learnedness, but were rarely wealthy—were sometimes presented with the gift of an enslaved person by their wealthy parishioners. By the eighteenth century, New England elites encouraged enslaved men and women to acculturate by embracing Christianity. Church records contain scattered entries for blacks—free and enslaved—receiving baptism, owning the covenant, marrying, having their children baptized, and being buried.

This is the “form of a Negro-Marriage” used by Congregational clergyman Samuel Phillips of Andover, Massachusetts, when enslaved couples came to him, asking to be wed, during his sixty-year pastorate (1710–71). Similar vows were used in other churches. Read the vows aloud, and imagine what the marriage ceremony was like. How would you characterize the marriage contract that is being made? Which Christian rules was the Reverend Phillips selectively invoking? Some years later, in the famous *Jennison v. Walker* case that is often cited as ending slavery in Massachusetts, attorney Levi Lincoln confirmed and challenged the paradox at the core of these vows: “The master has a right to separate the Husband and wife—is this consistent with the law of nature[?] Is it consistent with the law of nature to separate what God has joined and no man can put asunder?”[\*](https://jigsaw.vitalsource.com/books/9780190945763/epub/OEBPS/Chap2.xhtml?favre=brett#fn9-1)

Minister: “You,—do now in the Presence of God, and these Witnesses, Take—: to be your Wife; Promising that so far as shall be consistent with the Relations which you now sustain, as a Servant, you will Perform the Part of an Husband towards her; And in particular, you Promise, that you will Love her: And that, as you shall have the Opportunity & Ability, you will take a proper Care of her in Sickness and Health, in Prosperity & Adversity: And that you will be True & Faithfull to her, and will Cleave to her only, so long as God, in his Providence, shall continue your and her abode in Such Place (or Places) as that you can conveniently come together:—Do you thus Promise?”

Then the same Vow was declared for the woman to agree to.

Minister: “I then agreeable to your Request, and with the Consent of your Masters & Mistresses, do Declare, that you have Licence given you to be conversant and familiar together, as Husband and Wife, so long as God shall continue your Places of abode as aforesaid; and so long as you shall behave yourselves as it becomes Servants to doe: For you must, both of you, bear in mind, that you Remain Still, as really and truly as ever, your Master’s Property, and therefore it will be justly expected, both by God and Man, that you behave and conduct yourselves, as Obedient and faithfull Servants towards your respective Masters & Mistresses for the Time being.…”

“I shall now conclude with Prayer for you, that you may become good Christians, and that you may be enabled to conduct as such; and in particular, that you may have Grace to behave suitably towards each Other, as also dutifully towards your Masters & Mistresses, not with Eye-Service, as Men-pleasers, but as the Servants of Christ, doing the will of God from the heart.”

[\*](https://jigsaw.vitalsource.com/books/9780190945763/epub/OEBPS/Chap2.xhtml?favre=brett#fni9-1) “Brief of Levi Lincoln in the Slave Case Tried 1781,” *Collections of the Massachusetts Historical Society*, 5th ser., 3 (1877): 441.

George E. Howard, *A History of Matrimonial Institutions…* (London, 1904), 2:225–26, quoting George H. Moore, “Slave Marriages in Massachusetts,” *Dawson’s Historical Magazine*, 2nd ser., 5 (1869): 137. We have modernized spelling and expanded abbreviated words.

[*English Jurist William Blackstone Defines Coverture*](https://jigsaw.vitalsource.com/books/9780190945763/epub/OEBPS/Contents.xhtml#ts10)

All lawyers and most educated gentlemen in the colonial period and well into the 1800s learned about English common law from William Blackstone’s *Commentaries on the Laws of England*. The book grew out of Blackstone’s lectures as a professor of law at the University of Oxford. He was widely praised for offering a lucid, if overly streamlined, synthesis of English legal reasoning and rules as they had emerged from decisions in common-law courts since the medieval period.

This excerpt from the *Commentaries* is from [chapter 15](https://jigsaw.vitalsource.com/books/9780190945763/epub/OEBPS/Chap15.xhtml), “Of Husband and Wife,” in the section entitled “Of the Rights of Persons.” The jurist explains that when a woman married, she entered the legal status of coverture in which her legal rights as an adult were markedly curtailed. Notice the metaphors applied to marital relations: how many do you count and what do you make of them? The “disabilities” that law imposed on married women were very real, but in everyday life they were seen as compatible with spouses’ economic partnerships. In practice, wives maintained active economic lives—they bargained, bartered, and purchased and sold foodstuffs and other “necessaries”—as long as husbands did not countermand them. The coverture rules articulated by Blackstone have had a very long life in US history, as have women’s protests against coverture and similar double standards.

By marriage, the husband and wife are one person in law: that is, the very being or legal existence of the woman is suspended during the marriage, or at least is incorporated and consolidated into that of the husband: under whose wing, protection, and cover, she performs every thing; and is therefore called in our law-french a *feme-covert*, [and]… is said to be… under the protection and influence of her husband, her *baron*, or lord; and her condition during her marriage is called her *coverture*. Upon this principle, of a union of person in husband and wife, depend almost all the legal rights, duties, and disabilities, that either of them acquire by the marriage.… For this reason, a man cannot grant any thing to his wife, or enter into covenant with her: for the grant would be to suppose her separate existence; and to covenant with her, would be only to covenant with himself. A woman indeed may be attorney for her husband; for that implies no separation from, but is rather a representation of, her lord. And a husband may also bequeath any thing to his wife by will; for that cannot take effect till the coverture is determined by his death. The husband is bound to provide his wife with necessaries by law, as much as himself; and, if she contracts debts [to pay] for them, he is obliged to pay them; but for any thing besides necessaries he is not chargeable. Also if a wife elopes, and lives with another man, the husband is not chargeable even for necessaries; at least if the person who furnishes them is sufficiently apprized of her elopement. If the wife be indebted before marriage, the husband is bound afterwards to pay the debt; for he has adopted her and her circumstances together. If the wife be injured in her person or her property, she can bring no action for redress without her husband’s concurrence, and in his name, as well as her own: neither can she be sued without making the husband a defendant.… In criminal prosecutions, it is true, the wife may be indicted and punished separately… [in some cases where she acts without his knowledge]. But in trials of any sort they are not allowed to be witnesses for, or against, each other: partly because it is impossible their testimony should be indifferent, but principally because of the union of person.…

The husband [traditionally by English] law, might give his wife moderate correction. For, as he is to answer for her misbehaviour, the law thought it reasonable to intrust him with this power of restraining her, by domestic chastisement, in the same moderation that a man is allowed to correct his apprentices or children; for whom the master or parent is also liable in some cases to answer. But this power of correction was confined within reasonable bounds.… But…, [starting] in the politer reign of Charles the Second, this power of correction began to be doubted; and a wife may now have security of the peace against her husband; or, in return, a husband against his wife. Yet… the courts of law will still permit a husband to restrain a wife of her liberty, in case of any gross misbehaviour.

These are the chief legal effects of marriage during the coverture; upon which we may observe, that even the disabilities which the wife lies under are for the most part intended for her protection and benefit: so great a favourite is the female sex of the laws of England.

William Blackstone, *Commentaries on the Laws of England*, 1st ed., 4 vols. (1765–69; reprint, Chicago, 1979), I:430–33.

[*Widow Mary Collins’s Probate Inventory*](https://jigsaw.vitalsource.com/books/9780190945763/epub/OEBPS/Contents.xhtml#ts11)

As Laurel Thatcher Ulrich’s essay “Three Inventories, Three Households” demonstrates, we can learn a lot about settler families from studying the inventory of possessions created after the head of household died and his or her estate went through probate. Three or four local men, usually neighbors who had been involved in economic dealings with the deceased person, were appointed to appraise the estate. Read this list carefully in light of what we learned about rice plantations in Judith A. Carney’s essay. Mary Collins lived in St. Thomas parish, adjacent to the city of Charleston, South Carolina. What was being produced on the Collins family land during Mary McGregor Collins’s long widowhood (her husband Jonathan died in 1761)? What surprises you about the nature and extent of household objects she owned? Why do you think no land or buildings are listed? Note that there were 20 shillings (sh.) per pound (£) and 12 pence per shilling.[†](https://jigsaw.vitalsource.com/books/9780190945763/epub/OEBPS/Chap2.xhtml?favre=brett#fn11-1)

Inventory & appraisement of the Estate of Mary Collins late of St. Thomas’s Parish Deceased as shewn to us the Subscribers by Peter Rerdon the Administrator this 29th March 1774 [The appraisers were John Sayne, John Singletary, Robert Collins, and Robert Johnson]

|  |  |  |  |
| --- | --- | --- | --- |
|  | £ | sh. | pence |
| 1 Feather Bed, Pillows, Blankets, Bedstead &c. | 40 | - | - |
| 4 pair Sheets & Pillow Cases, £8; a Suit Curtains, £8 | 16 | - | - |
| 11 Table Cloths & Towels, £6; a lott Books | 9 | - | - |
| 7 Table Spoons Silver | 30 | - | - |
| 3 Pewter Dishes, 12 Plates & Tea Spoons | 10 | - | - |
| a Buffet & China &c. | 6 | - | - |
| 1 old Trunk, Sugar, Thread Soap &c. | 5 | - | - |
| a bag Brown Sugar | 3 | - | - |
| 1 Warming Pan, 40 sh.; a pair Rice Sieves 45 sh. | 4 | 5 | - |
| Knives & forks, 25 sh., 2 Juggs, Jarr, Bottles & flour, 90 sh | 5 | 15 | - |
| 1 Old trunk with Wearing appearel | 20 | - | - |
| 15 Bushels pease at 65 sh./bu, a pair Dogs & Kettles | 15 | 5 | - |
| 6 old Chairs & a Table | 1 | 15 | - |
| 1 Lott of Plantation Tools & a pair Cloths Irons | 8 | - | - |
| 1 Steel Corn Mill, £10.40; \_\_ Bushels Corn @17sh. | 45 | - | - |
| Kitchen Furniture & Spinning Wheel | 5 | - | - |
| 200 Small Rice, 50sh.; 24 Bushels seed Rice @ 12/6 | 17 | 10 | - |
| 3 Candle Sticks, Tea Chest, &c. | 2 | - | - |
| 6 Head Cattle @ £10 [each] | 60 | - | - |
| 50 Bushel seed Potatoes @5sh. [each]; 3 Padlocks, 20sh. | 13 | 10 | - |
| 1 Negro Woman Cate | 200 | - | - |
| 1 Negro Boy Isaac | 300 | - | - |
| 1 Negro Girl Rose | 200 | - | - |
| 1 Negro Man Hank | 600 | - | - |
| 1 Negro Woman Binah & Daughter Peggy | 500 | - | - |
| 1 Negro Woman Didah & son Pompey | 550 | - | - |
| 1 Negro Man Billy, £400; 1 Negro Man Scipio, £400 | 800 | - | - |
| 1 Negro Wench Malia, £400; 1 Negro Girl Sary, £300 | 700 | - | - |
| 17 Bl. Rice in Town weight 1650 @ 50 sh/ | 191 | 5 | - |
| a Legacy left by Martha McGrigor with Interest due | 1900 | - | - |
| TOTAL | £6258 | 5 | - |

[†](https://jigsaw.vitalsource.com/books/9780190945763/epub/OEBPS/Chap2.xhtml?favre=brett#fni11-1) For more reading tips for probate inventories, go to <http://chnm.gmu.edu/probateinventory/interpreting/readingtips.php>. Dates for the Collins’s marriage (Oct. 20, 1745), Jonathan’s previous marriage, and their deaths are found in [The Rev.] Robert F. Clute, *The Annals and Parish Register of St. Thomas and St. Denis Parish, in South Carolina: From 1680 to 1883* (Charleston, 1884), accessible via [https://archive.org](https://archive.org/).

Reprinted from Alice Hanson Jones, *American Colonial Wealth: Documents and Methods*, 2d ed. (New York, 1978), 1498.

## [*Maria Perkins Writes to Her Husband on the Eve of Being Sold, 1852*](https://jigsaw.vitalsource.com/books/9780190945763/epub/OEBPS/Contents.xhtml#ts29)

Because enslavers understood the connection between literacy and rebelliousness, enslaved people were rarely taught to read and write. This anguished letter from Maria Perkins is unusual because it was written by an enslaved woman. We do not know whether Perkins’s husband Richard managed to persuade his master to buy her and keep the family together. If a trader did buy Maria Perkins or her child, the likelihood of permanent separation was great. Scottsville, mentioned in the letter, is a small town near Charlottesville; Staunton is some forty miles away.

Charlottesville, Oct. 8th, 1852

Dear Husband I write you a letter to let you know my distress my master has sold albert to a trader on Monday court day and myself and other child is for sale also and I want you to let [me] hear from you very soon before next cort if you can I don’t know when I don’t want you to wait till Christmas I want you to tell dr Hamelton and your master if either will buy me they can attend to it know and then I can go afterwards. I don’t want a trader to get me they asked me if I had got any person to buy me and I told them no they took me to the court houste too they never put me up a man buy the name of brady bought albert and is gone I don’t know where they say he lives in Scottesville my things is in several places some is in staunton and if I should be sold I don’t know what will become of them I don’t expect to meet with the luck to get that way till I am quite heartsick nothing more I am and ever will be your kind wife Maria Perkins.

### ANGELINA GRIMKÉ, APPEAL TO THE CHRISTIAN WOMEN OF THE SOUTH (1836)

Sisters in Christ I feel an interest in *you*, and often has the secret prayer arisen on your behalf, Lord “open thou their eyes that they may see wondrous things out of thy Law”—It is then, because I *do feel* and *do pray* for you, that I thus address you upon a subject about which of all others, perhaps you would rather not hear any thing; but, “would to God ye could bear with me a little in my folly, and indeed bear with me, for I am jealous over you with godly jealousy.” Be not afraid then to read my appeal; it is *not* written in the heat of passion or prejudice, but in that solemn calmness which is the result of conviction and duty. It is true, I am going to tell you unwelcome truths, but I mean to speak those *truths in love*, and remember Solomon says, “faithful are the *wounds* of a friend.” I do not believe the time has yet come when *Christian women* “will not endure sound doctrine,” even on the subject of slavery, if it is spoken to them in tenderness and love, therefore I now address you.…

We must come back to the good old doctrine of our forefathers who declared to the world, “this self evident truth that *all* men are created equal, and that they have certain *inalienable* rights among which are life, *liberty*, and the pursuit of happiness.” It is even a greater absurdity to suppose a man can be legally born a slave under *our free Republican* Government, than under the petty despotisms of barbarian Africa. If then, we have no right to enslave an African, surely we can have none to enslave an American; if it is a self evident truth that *all* men, every where and of every color are born equal, and have an *inalienable right to liberty*, then it is equally true that *no* man can be born a slave, and no man can ever *rightfully* be reduced to *involuntary* bondage and held as a slave, however fair may be the claim of his master or mistress through will and title-deeds.…

But perhaps you will be ready to query, why appeal to *women* on this subject? *We* do not make the laws which perpetuate slavery. No legislative power is vested in *us*; *We* can do nothing to overthrow the system, even if we wished to do so. To this I reply, I know you do not make the laws, but I also know that *you are the wives and mothers, the sisters and daughters of those who do*; and if you really suppose *you* can do nothing to overthrow slavery, you are greatly mistaken. You can do much in every way: four things I will name. 1st. You can read on this subject. 2d. You can pray over this subject. 3d. You can speak on this subject. 4th. You can *act* on this subject. I have not placed reading before praying because I regard it more important, but because, in order to pray aright, we must understand what we are praying for; it is only then we can “pray with the understanding and the spirit also.”

1. Read then on the subject of slavery. Search the Scriptures daily, whether the things I have told you are true. Other books and papers might be a great help to you in this investigation, but they are not necessary.…

2. Pray over this subject. When you have entered into your closets, and shut to the doors, then pray to your father, who seeth in secret, that he would open your eyes to see whether slavery is *sinful*, and if it is, that he would enable you to bear a faithful, open and unshrinking testimony against it, and to do whatsoever your hands find to do.…

3. Speak on this subject. It is through the tongue, the pen, and the press, that truth is principally propagated. Speak then to your relatives, your friends, your acquaintances on the subject of slavery; be not afraid if you are conscientiously convinced it is *sinful*, to say so openly, but calmly, and to let your sentiments be known. If you are served by the slaves of others, try to ameliorate their condition as much as possible; never aggravate their faults, and thus add fuel to the fire of anger already kindled in a master and mistress’s bosom.…

4. Act on this subject. Some of you *own* slaves yourselves. If you believe slavery is *Sinful*, set them at liberty, “undo the heavy burdens and let the oppressed go free.” If they wish to remain with you, pay them wages, if not let them leave you. Should they remain teach them, and have them taught the common branches of an English education; they have minds and those minds, *ought to be improved*. So precious a talent as intellect, never was given to be wrapt in a napkin and buried in the earth. It is the *duty* of all, as far as they can, to improve their own mental faculties, because we are commanded to love God with *all our minds*, as well as with all our hearts, and we commit a great sin, if we *forbid or prevent* that cultivation of the mind in others, which would enable them to perform this duty. Teach your servants then to read & c, and encourage them to believe it is their *duty* to learn, if it were only that they might read the Bible.

But some of you will say, we can neither free our slaves nor teach them to read, for the laws of our state forbid it. Be not surprised when I say such wicked laws *ought to be no barrier* in the way of your duty, and I appeal to the Bible to prove this position. What was the conduct of Shiphrah and Puah, when the king of Egypt issued his cruel mandate, with regard to the Hebrew children? “*They* feared *God*, and did *not* as the King of Egypt commanded them, but saved the men children alive.” Did these *women* do right in disobeying that monarch? “*Therefore* (says the sacred text,) God *dealt well* with them, and made them houses.”

### SARAH M. GRIMKÉ, LETTERS ON THE EQUALITY OF THE SEXES AND THE CONDITION OF WOMEN (1837)

#### Letter VIII: “On the Condition Of Women In the United States”

During the early part of my life, my lot was cast among the butterflies of the *fashionable* world; and of this class of women, I am constrained to say, both from experience and observation, that their education is miserably deficient; that they are taught to regard marriage as the one thing needful, the only avenue to distinction; hence to attract the notice and win the attentions of men, by their external charms, is the chief business of fashionable girls. They seldom think that men will be allured by intellectual acquirements, because they find, that where any mental superiority exists, a woman is generally shunned and regarded as stepping out of her “appropriate sphere,” which, in their view, is to dress, to dance, to set out to the best possible advantage her person, to read the novels which inundate the press, and which do more to destroy her character as a rational creature, than any thing else.…

There is another and much more numerous class in this country, who are withdrawn by education or circumstances from the circle of fashionable amusements, but who are brought up with the dangerous and absurd idea, that *marriage* is a kind of preferment; and that to be able to keep their husband’s house, and render his situation comfortable, is the end of her being. Much that she does and says and thinks is done in reference to this situation; and to be married is too often held up to the view of girls as the sine qua non of human happiness and human existence.… I do long to see the time, when it will no longer be necessary for women to expend so many precious hours in furnishing “a well spread table,” but that their husbands will forego some of the accustomed indulgences in this way, and encourage their wives to devote some portion of their time to mental cultivation, even at the expense of having to dine sometimes on baked potatoes, or bread and butter.…

There is another way in which the general opinion, that women are inferior to men, is manifested, that bears with tremendous effect on the laboring class, and indeed on almost all who are obliged to earn a subsistence, whether it be by mental or physical exertion—I allude to the disproportionate value set on the time and labor of men and of women. A man who is engaged in teaching, can always, I believe, command a higher price for tuition than a woman—even when he teaches the same branches, and is not in any respect superior to the woman. This I know is the case in boarding and other schools with which I have been acquainted, and it is so in every occupation in which the sexes engaged indiscriminately. As for example, in tailoring, a man has twice, or three times as much for making a waistcoat or pantaloons as a woman, although the work done by each may be equally good. In those employments which are peculiar to women, their time is estimated at only half the value of that of men. A woman who goes out to wash, works as hard in proportion as a wood sawyer, or a coal heaver, but she is not generally able to make more than half as much by a day’s work.…

There is another class of women in this country, to whom I cannot refer, without feelings of the deepest shame and sorrow. I allude to our female slaves. Our southern cities are whelmed beneath a tide of pollution; the virtue of female slaves is wholly at the mercy of irresponsible tyrants, and women are bought and sold in our slave markets, to gratify the brutal lust of those who bear the name of Christians. In our slave States, if amid all her degradation and ignorance, a women desires to preserve her virtue unsullied, she is either bribed or whipped into compliance, or if she dares resist her seducer, her life by the laws of some of the slave States may be, and has actually been sacrificed to the fury of disappointed passion. Where such laws do not exist, the power which is necessarily vested in the master over his property, leaves the defenceless slave entirely at his mercy, and the sufferings of some females on this account, both physical and mental, are intense.

#### Letter XV: Man Equally Guilty with Woman in the Fall

… In contemplating the great moral reformations of the day, and the part which they are bound to take in them, instead of puzzling themselves with the harassing, because unnecessary inquiry, how far they may go without overstepping the bounds of propriety, which separate male and female duties, they will only inquire, “Lord, what wilt thou have us do?” They will be enabled to see the simple truth, that God has made no distinction between men and women as moral beings; that the distinction now so much insisted upon between male and female virtues is as absurd as it is unscriptural, and has been the fruitful source of much mischief—granting to man a license for the exhibition of brute force and conflict on the battlefield; for sternness, selfishness, and the exercise of irresponsible power in the circle of home—and to woman a permit to rest on an arm of flesh, and to regard modesty and delicacy, and all the kindred virtues, as peculiarly appropriate to her. Now to me it is perfectly clear, that whatsoever it is morally right for a man to do, it is morally right for a woman to do; and that confusion must exist in the moral world, until woman takes her stand on the same platform with man, and feels that she is clothed by her Maker with the *same rights*, and, of course, that upon her devolve the *same duties*.

### PASTORAL LETTER: THE GENERAL ASSOCIATION OF MASSACHUSETTS TO THE CHURCHES UNDER THEIR CARE

III.—We invite your attention to the dangers which at present seem to threaten the female character with wide spread and permanent injury.

The appropriate duties and influence of women are clearly stated in the New Testament. Those duties and that influence are unobtrusive and private, but the sources of mighty power. When the mild, dependant [sic], softening influence of woman upon the sternness of man’s opinion is fully exercised, society feels the effects of it in a thousand forms. The power of woman is in her dependence, flowing from the consciousness of that weakness which God has given her for her protection, and which keeps her in those departments of life that form the character of individuals and of the nation. There are social influences which females use in promoting piety and the great objects of Christian benevolence which we cannot too highly commend. We appreciate the unostentatious prayers and efforts of woman in advancing the cause of religion at home and abroad; in Sabbath schools; in leading religious inquirers to the pastors for instruction; and in all such associated effort as becomes the modesty of her sex; and earnestly hope that she may abound more and more in these labors of piety and love.

But when she assumes the place and tone of man as a public reformer, our care and protection of her seem unnecessary; we put ourselves in self-defence against her; she yields the power which God has given her for protection, and her character becomes unnatural. If the vine, whose strength and beauty is to lean upon the trellis and half conceal its clusters, thinks to assume the independence and the overshading nature of the elm, it will not only cease to bear fruit, but fall in shame and dishonor into the dust. We cannot, therefore, but regret the mistaken conduct of those who encourage females to bear an obtrusive and ostentatious part in measures of reform, and countenance any of that sex who so far forget themselves as to itinerate in the character of public lecturers and teachers. We especially deplore the intimate acquaintance and promiscuous conversation of females with regard to things “which ought not to be named”; by which that modesty and delicacy which is the charm of domestic life, and which constitutes the true influence of woman in society is consumed, and the way opened, as we apprehend, for degeneracy and ruin.…

### SARAH M. GRIMKÉ, RESPONSE TO “THE PASTORAL LETTER…”

The motto of woman, when she is engaged in the great work of public reformation should be,—“The Lord is my light and my salvation; whom shall I fear? The Lord is the strength of my life; of whom shall I be afraid?” She must feel, if she feels rightly, that she is fulfilling one of the important duties laid upon her as an accountable being, and that her character, instead of being “unnatural,” is in exact accordance with the will of Him to whom, and to no other, she is responsible for the talents and the gifts confided to her. As to the pretty simile, introduced into the “Pastoral Letter,” “If the vine whose strength and beauty is to lean upon the trellis work, and half conceal its clusters, thinks to assume the independence and the overshadowing nature of the elm,” &c. I shall only remark that it might well suit the poet’s fancy, who sings of sparkling eyes and coral lips, and knights in armor clad; but it seems to me utterly inconsistent with the dignity of a Christian body, to endeavor to draw such an anti-scriptural distinction between men and women. Ah! how many of my sex feel in the dominion, thus unrighteously exercised over them, under the gentle appellation of *protection*, that what they have leaned upon has proved a broken reed at best, and oft a spear.

Thine in the bonds of womanhood,

Sarah M. Grimké

[\*](https://jigsaw.vitalsource.com/books/9780190945763/epub/OEBPS/Chap8.xhtml?favre=brett#fni34-1) See Gerda Lerner, The Grimké Sisters from South Carolina: Rebels against Slavery (Boston, 1967).

Excerpted from *The Public Years of Sarah and Angelina Grimké: Selected Writings, 1835–1839*, ed. Larry Ceplair (New York: Columbia University Press, 1991), 37–38, 54–56, 211, 216, 220–23, 268–69. Reprinted with permission of the publisher.

## [*Keziah Kendall Protests Coverture*](https://jigsaw.vitalsource.com/books/9780190945763/epub/OEBPS/Contents.xhtml#ts35)

We know nothing more about “Keziah Kendall” than what she revealed in this letter, which historians Dianne Avery and Alfred S. Konefsky discovered among the papers of Simon Greenleaf, a prominent Harvard law professor. It has not been possible to locate the author in the usual places—tax lists, land records, church lists. Keziah and her sisters carry the names of Job’s daughters; whether the names are real or fictional, the writer assumed that her readers would remember the biblical reference: “in all the land there were no women so fair as Job’s daughters; and their father gave them inheritance among their brothers.”

Kendall had been dismayed by what she heard at a public lyceum lecture on women’s rights given by Greenleaf in early 1839. At a time when the legal disabilities of inherited common law were increasingly being questioned—in Massachusetts, the abolitionists Sarah and Angelina Grimké had only recently delivered a forthright series of lectures on the rights of women—Greenleaf devoted his lecture to the claim that American women were well protected by American law as it stood. He argued that excluding women from politics saved society from “uproar” and impropriety and that constraints on married women’s use of their property was merely a technicality because in a happy marriage all property became part of “a common fund… it can make but little difference… by whose name it is called.” And he insisted that except for “restriction in *political matters*” there were no significant “distinctions between the legal rights of unmarried women, and of men.”

Keziah Kendall was unpersuaded and wrote to demand that Greenleaf offer another lecture, acknowledging the “legal wrongs” of women. What are Kendall’s objections to the law as she experienced it? What connections does she draw between paying taxes, voting, and officeholding? Why does she blame Massachusetts property law for her fiancé’s death? Why is she worried about her sister’s forthcoming marriage?

Keziah Kendall to Simon Greenleaf [1839?] I take the liberty to write to you on the subject of the Lyceum lecture you delivered last Feb but as you are not acquainted with me I think I will introduce myself. My name is Keziah Kendall. I live not many miles from Cambridge, on a farm with two sisters, one older, one younger than myself. I am thirty two. Our parents and only brother are dead—we have a good estate—comfortable house—nice barn, garden, orchard & c and money in the bank besides. Jemima is a very good manager in the house, keeps everything comfortable—sees that the milk is nicely prepared for market—looks after everything herself, and rises before day, winter and summer,—but she never had any head for figures, and always expects me to keep all accounts, and attend to all business concerns. Keranhappuck, (who is called Kerry) is quite young, only nineteen, and as she was a little girl when mother died, we’ve always petted her, and let her do as she pleased, and now she’s courted. Under these circumstances the whole responsibility of our property, not less than twenty five thousand dollars rests upon me. I am not over fond of money, but I have worked hard ever since I was a little girl, and tried to do all in my power to help earn, and help save, and it would be strange if I did not think more of it than those who never earned anything, and never saved anything they could get to spend, and you know Sir, there are many such girls nowadays. Well—our milkman brought word when he came from market that you were a going to lecture on the legal rights of women, and so I thought I would go and learn. Now I hope you wont think me bold when I say, I did not like that lecture much. I dont speak of the manner, it was pretty spoken enough, but there was nothing in it but what every body knows. We all know about a widow’s thirds,[1](https://jigsaw.vitalsource.com/books/9780190945763/epub/OEBPS/Chap8.xhtml?favre=brett#en35-1) and we all know that a man must maintain his wife, and we all know that he must pay her debts, if she has any—but I never heard of a yankee woman marrying in debt. What I wanted to know, was good reasons for some of those laws that I cant account for. I do hope if you are ever to lecture at the Lyceum again, that you will give us some. I must tell my story to make you understand what I mean. One Lyceum lecture that I heard in C. stated that the Americans went to war with the British, because they were taxed without being represented in Parliament. Now we are taxed every year to the full amount of every dollar we possess—town, county, state taxes—taxes for land, for movables, for money and all. Now I dont want to go representative or any thing else, any more than I do to be a “constable or a sheriff,” but I have no voice about public improvements, and I dont see the justice of being taxed any more than the “revolutionary heroes” did. You mention that woman here, are not treated like heathen and Indian women—we know that—nor do I think we are treated as Christian women ought to be, according to the Bible rule of doing to others as you would others should do unto you. I am told (not by you) that if a woman dies a week after she’s married that her husband takes all her personal property and the use of her real estate as long as he lives[2](https://jigsaw.vitalsource.com/books/9780190945763/epub/OEBPS/Chap8.xhtml?favre=brett#en35-2)—if a man dies his wife can have her thirds—this does not come up to the Gospel rule. Now the young fellow that is engaged to our Kerry, is a pleasant clever fellow, but he is not quite one and twenty, and I dont s’pouse he ever earned a coat in his life. Uncle told me there was a way for a woman to have her property trustee’d,[3](https://jigsaw.vitalsource.com/books/9780190945763/epub/OEBPS/Chap8.xhtml?favre=brett#en35-3) and I told it to Kerry—but she, poor girl has romantic notions owing to reading too many novels,[4](https://jigsaw.vitalsource.com/books/9780190945763/epub/OEBPS/Chap8.xhtml?favre=brett#en35-4) and when I told her of it, she would not hear of such a thing—“What take the law to keep my property away from James before I marry him—if it was a million of dollars he should have it all.” So you see I think the law is in fault here—to tell you the truth I do not think young men are near so careful about getting in debt as girls, and I have known more than one that used their wife’s money to pay off old scores.… I had rather go to my mantua maker[5](https://jigsaw.vitalsource.com/books/9780190945763/epub/OEBPS/Chap8.xhtml?favre=brett#en35-5) to borrow twenty dollars if I needed it, than to the richest married woman I know.

Another thing I have to tell you—when I was young I had a lover, Jos. Thompson, he went into business in a neighboring town, and after a year or two while I was getting the wedding things—Joe failed, he met with misfortunes that he did not expect,—he could have concealed it from me and married, but he did not—he was honorable, and so we delayed. He lived along here two or three years, and tried all he could to settle with his creditors, but some were stiff and held out, and thought by and by we would marry, and they should get my property. Uncle said he knew if we were married, there were those who would take my cattle and the improvement of my land. Joseph used to visit me often those years, but he lost his spirits and he could not get into business again, and he thought he must go to sea. I begged him not to, and told him we should be able to manage things in time, but he said no—he must try his luck, and at least get enough to settle off old scores, and then he would come here and live and we would make the best of what I had. We parted—but it pleased God he should be lost at sea. What I have suffered, I cannot tell you. Now Joe was no sailor when I engaged with him, and if it had been a thing known that I should always have a right to keep possession of my own, he need never have gone to sea, and we might have lived happily together, and in time with industry and economy, he might have paid off all. I am one that cant be convinced without better reasons than I have heard of, that woman are dealt with by the “gospel rule.” There is more might than right in such laws as far as I can see—if you see differently, do tell us next time you lecture. Another thing—you made some reflections upon women following the Anti’s.… Women have joined the Antislavery societies, and why? Women are kept for slaves as well as men—it is a common cause, deny the justice of it, who can! To be sure I do not wish to go about lecturing like the Misses Grimkie, but I have not the knowledge they have, and I verily believe that if I had been brought up among slaves as they were, and knew all that they know, and felt a call from humanity to speak, I should run the venture of your displeasure, and that of a good many others like you.[6](https://jigsaw.vitalsource.com/books/9780190945763/epub/OEBPS/Chap8.xhtml?favre=brett#en35-6) I told Uncle that I thought your lecture was a one-sided thing—and he said, “why Keziah, Squire Greenleaf is an advocate, not a judge, you must get him to take t’other side next time.” Now I have taken this opportunity to ask you to give us a remedy for the “legal wrongs” of women, whenever you have a chance. The fathers of the land should look to these things—who knows but your daughter may be placed in the sad situation I am in, or the dangerous one Kerry is in. I hear you are a good man, to make it certain—do all the good you can, and justify no wrong thing.

Yours with regard

Keziah Kendall

## NOTES

1. [1.](https://jigsaw.vitalsource.com/books/9780190945763/epub/OEBPS/Chap8.xhtml?favre=brett#eni35-1) She is referring to a widow’s dower rights.
2. [2.](https://jigsaw.vitalsource.com/books/9780190945763/epub/OEBPS/Chap8.xhtml?favre=brett#eni35-2) “Kendall” was correct in her understanding of a husband’s rights in his wife’s personal property if she should die as early as “a week after she’s married.” But under the common law he would not inherit a life interest in her real estate unless they were parents of a child.
3. [3.](https://jigsaw.vitalsource.com/books/9780190945763/epub/OEBPS/Chap8.xhtml?favre=brett#eni35-3) This is a reference to the equitable device of placing the woman’s property in a trust before marriage for the purpose of avoiding the husband’s common law rights in her property as well as protecting it from the husband’s creditors. Under the trust agreement, the trustee would be obligated to manage the property for the benefit of the married woman.
4. [4.](https://jigsaw.vitalsource.com/books/9780190945763/epub/OEBPS/Chap8.xhtml?favre=brett#eni35-4) “Kendall” shared a widely held distrust of romantic novels.
5. [5.](https://jigsaw.vitalsource.com/books/9780190945763/epub/OEBPS/Chap8.xhtml?favre=brett#eni35-5) In the early republic, mantua makers [i.e., skilled dressmakers] were often economically independent women.
6. [6.](https://jigsaw.vitalsource.com/books/9780190945763/epub/OEBPS/Chap8.xhtml?favre=brett#eni35-6) “Kendall” is probably referring here to the “Pastoral Letter” issued by the Congregationalist ministers in the summer of 1837 denouncing the public lecturing of the Grimké sisters (see [pp. 198](https://jigsaw.vitalsource.com/books/9780190945763/epub/OEBPS/Chap8.xhtml#Page_198)–[199](https://jigsaw.vitalsource.com/books/9780190945763/epub/OEBPS/Chap8.xhtml#Page_199)).

Letter from Keziah Kendall to Simon Greenleaf (undated), Box 3, Folder 10, Simon Greenleaf Papers, Harvard Law School Library. Excerpted from Diane Avery and Alfred S. Konefsky, “The Daughters of Job: Property Rights and Women’s Lives in Mid-Nineteenth-Century Massachusetts,” *Law and History Review* 10 (Fall 1992): 323–56. Notes have been renumbered and edited